



**STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
DIVISION OF MENTAL RETARDATION SERVICES
ANDREW JACKSON BUILDING, 15th FLOOR
500 DEADERICK STREET
NASHVILLE, TENNESSEE 37243**

September 10, 2008

Dear Division of Mental Retardation Services Stakeholders:

As you are aware, for many years, the State of Tennessee has been involved in three Federal lawsuits involving the care of Tennesseans with mental retardation. The litigation related to Arlington Developmental Center (ADC) is the reason I am communicating with you now.

On Wednesday September 3rd the State requested the West Tennessee District Court to dismiss the Arlington lawsuit. Without delving into technicality, legal counsel for the State advised the foundation of the lawsuit was no longer valid. This is the State's contention and reason for the dismissal request.

The State works diligently in meeting its court-directed obligations. A large amount of financial and personnel resources are incorporated in the process. Great strides have been made in this lawsuit and as I have said repeatedly since I assumed the position of Deputy Commissioner: Nothing is more important than the health and safety of the persons we support.

Having legal proceedings drawn to a conclusion will allow DMRS to move forward, redirecting its resources to enhancing its service delivery system and allowing for more persons to receive supports. The cost of the lawsuit is sobering when you consider there are more than 6,300 persons on the Division's Waiting List for services. The State is inhibited financially from enrolling more of those persons into supports.

Tennesseans in the Arlington Waiver receive several court-ordered benefits that their counterparts in the Statewide Home and Community-based (Main) Waiver do not receive. These benefits include: Housing and transportation subsidies, advocacy services, the provision of conservators or guardians, dental and vision.

Most persons in the Arlington Waiver receive health care benefits from Community Services Network (CSN) while those in the Main Waiver receive health services through a TennCare managed care organization (MCO). This

increases costs to the State because CSN is not bound to follow Medicaid and TennCare regulations for determining whether particular services are covered. Expenses also increase due to CSN being funded by State dollars, rather than the State receiving two to one Federal matching funds under Medicaid.

The obligations of DMRS in the ADC lawsuit is costing the State more than \$30 million over what would be spent if those persons in the Arlington Waiver were treated the same as those persons in the Main Waiver.

Let me be clear, the State is not turning away from those persons in the Arlington Waiver. Again, nothing is more important than the welfare of the persons we support. Referring to the Settlement Agreement I alluded to earlier in this letter: Even if the lawsuit is dismissed the State plans to implement many of the provisions reached in this compact.

The State will proceed with the closure of ADC and with a plan to construct 12 Intermediate Care Facility/Mental Retardation (ICF/MR) homes totaling 48 beds. These homes will accommodate some of the persons moving out of ADC. The total cost, funded by State dollars and bonds, is estimated to be \$11,520,000. Also, the current fiscal year budget contains \$3.3 million in State funds for the construction of additional ICF/MR homes if needed. Finally, there is no change in the plan to open a resource center for persons with mental retardation in West Tennessee.

It is time to bring the Arlington litigation to conclusion. For many years now the State has worked tirelessly in every respect to comply with court orders. Every person on each side of the aisle in this lawsuit desires what is best for persons in the Arlington Waiver. We will always work to make the lives of everyone we support better, and those many persons who are waiting for services will always be at the forefront of our plans.

It is time to resolve our issues, put them in the past and focus on the future.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen H. Norris".

Stephen H. Norris
Deputy Commissioner

SHN/tt